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17 Attorneys for Defendants
18 U.S. BANCORP and U.S. BANK NATIONAL ASSOCIATION

19
20 UNITED STATES DISTRICT COURT
21
22 NORTHERN DISTRICT OF CALIFORNIA

23 GEORGE T. BURKE, on behalf of himself and all
others similarly situated,

24 Plaintiff,

25 v.

26 U.S. BANCORP, U.S. BANK N.A., and DOES 1-
10, inclusive,

27 Defendants.

28 Case No. CV 09 1579 JSW

CLASS ACTION

STIPULATION AND ~~PROPOSED~~
ORDER FOR FURTHER EXTENSION
OF TIME TO RESPOND TO FIRST
AMENDED COMPLAINT IN LIGHT
OF ANTICIPATED FILING OF
SECOND AMENDED COMPLAINT

1 Pursuant to Local Rule 6-1(a) and Federal Rule of Civil Procedure 12(a), Plaintiff George
2 T. Burke (“Plaintiff”) and Defendants U.S. Bancorp and U.S. Bank National Association
3 (“Defendants”), by and through their respective attorneys, hereby stipulate and agree as follows:

4 WHEREAS, Plaintiff filed his complaint in this matter on February 6, 2009;

5 WHEREAS, Plaintiff filed the First Amended Complaint in this matter on March 10,
6 2009;

7 WHEREAS, Defendants removed this case from California State Superior Court on April
8 10, 2009;

9 WHEREAS, the parties have since engaged in mutual discussion and an informal
10 exchange of information regarding the conduct at issue in this litigation;

11 WHEREAS, as a result of such discussions Plaintiff and Defendants agreed that
12 Plaintiff’s First Amended Complaint may not accurately allege certain facts and Defendants’
13 policies and procedures;

14 WHEREAS, Plaintiff decided that under the circumstances, amendment of the First
15 Amended Complaint would be appropriate;

16 WHEREAS, in the process of preparing a second amended complaint, Plaintiff
17 discovered that another putative class action, commenced after this action, existed in the Central
18 District of California regarding substantially the same subject matter as the instant litigation,
19 specifically the case of *Lowe, et al. v. U.S. Bank, N.A.*, case no. SACV 09-0456 AG (the “*Lowe*
20 Action”);

21 WHEREAS, counsel for Plaintiff and counsel for the plaintiffs in the *Lowe* Action have
22 now prepared a draft consolidated Second Amended Complaint, which they propose to file in
23 this Court, the court before which the first-filed action is pending, in an effort to avoid
24 duplicative litigation and conserve judicial resources;

25 WHEREAS, on June 30, 2009 (yesterday), counsel for Plaintiff provided to counsel for
26 Defendants (i) a copy of the proposed, consolidated Second Amended Complaint and (ii) a
27 proposed stipulation consenting to the filing of the Second Amended Complaint;

1 WHEREAS, counsel for Defendants have not had an adequate opportunity to fully
2 review the proposed Second Amended Complaint with the relevant personnel from Defendants,
3 but expect to complete that process soon;

4 WHEREAS, the parties remain hopeful that at the conclusion of that process, they will
5 reach a stipulation regarding the filing of a second amended complaint, thus obviating the need
6 for any motion practice concerning the filing of a second amended complaint; and

7 WHEREAS, in light of the foregoing, the parties agree that Defendants' deadline to
8 respond to the First Amended Complaint, which is currently July 1, 2009, should be extended an
9 additional two weeks to allow the parties to reach a stipulation regarding the filing of a second
10 amended complaint;

11 IT IS HEREBY STIPULATED AND AGREED pursuant to Local Rule 6-1(a), and
12 Federal Rule of Civil Procedure 12(a), by and between Plaintiff George Burke and Defendants
13 U.S. Bancorp and U.S. Bank National Association, through their respective attorneys, that the
14 time by which Defendants may plead or otherwise respond to the First Amended Complaint shall
15 be extended to and include **Wednesday, July 15, 2009.**

1 Dated: July 1, 2009

JEFFREY F. KELLER
CAREY G. BEEN
KELLER GROVER LLP

4 By: /s/ Carey G. Been
5 Carey G. Been

6 Attorneys for Plaintiff
7 GEORGE T. BURKE

8 Dated: July 1, 2009

JAMES R. MCGUIRE
SYLVIA RIVERA
MORRISON & FOERSTER LLP

11 By: /s/ James R. McGuire
12 James R. McGuire

13 Attorneys for Defendants
14 U.S. BANCORP and U.S. BANK
NATIONAL ASSOCIATION

15 GENERAL ORDER 45 ATTESTATION

16 In accordance with General Order 45, concurrence in the filing of this document has been
17 obtained from each of the signatories and I shall maintain records to support this concurrence for
18 subsequent production for the court if so ordered or for inspection upon request by a party.

20 /s/ James R. McGuire
21 James R. McGuire

22 Attorneys for Defendants
23 U.S. BANCORP and U.S. BANK
NATIONAL ASSOCIATION

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: July 2, 2009

26 By: Jeffrey S. White
27 Judge Jeffrey S. White
United States District Court Judge